

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

<b>1</b>	<b>UNITED STATES OF AMERICA,</b>	)	<b>Docket No. 11 CR 50076</b>
<b>2</b>		)	
<b>3</b>		)	
<b>4</b>	<b>Plaintiff,</b>	)	<b>Rockford, Illinois</b>
<b>5</b>	<b>v.</b>	)	<b>Wednesday, October 10, 2012</b>
<b>6</b>	<b>ERIC INSELBERG,</b>	)	<b>11:12 o'clock a.m</b>
<b>7</b>	<b>Defendant.</b>	)	

**TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE P. MICHAEL MAHONEY**

**APPEARANCES:**

**For the Government:**

**HON. GARY S. SHAPIRO**  
**Acting United States Attorney**  
**(327 S. Church Street,**  
**Rockford, IL 61101) by**  
**MR. MICHAEL D. LOVE**  
**Assistant U. S. Attorney**

**For the Defendant:**

**CRITCHLEY, KINUM & VAZQUEZ, LLC**  
**(75 Livingston Avenue,**  
**Roseland, NJ, 07068) by**  
**MR. EDMUND DE NOIA**

**MR. BRENDAN W CAVER**  
**LAW OFFICE OF BRENDAN W CAVER, LTD.**  
**(308 W State Street,**  
**Suite 97,**  
**Rockford, IL 61101)**

**Court Reporter:**

**Mary T. Lindbloom**  
**327 S. Church Street**  
**Rockford, Illinois 61101**  
**(815) 987-4486**

1           **(The following is from a tape-recording of proceedings:)**

2           **THE COURT:** This is case 11 CR 50076, United States of  
3           America v. Eric Inselberg. I would request that all counsel,  
4           we'll start with counsel on behalf of the United States, please  
5           identify themselves for the court record.

6           **MR. LOVE:** Good morning, your Honor. Mike Love on  
7           behalf of the United States.

8           **THE COURT:** Good morning, counsel.

9           **MR. CAVER:** Good morning, your Honor. Brendan Caver on  
10          behalf of Eric Inselberg.

11          **THE COURT:** Good morning, counsel.

12          **MR. DE NOIA:** Good morning, your Honor. Edmund DeNoia  
13          of the law firm Critchley, Kinum & Vazquez located in Roseland,  
14          New Jersey, on behalf of Mr. Inselberg.

15          **THE COURT:** Good morning, counsel.

16          **MR. DE NOIA:** Good morning, your Honor.

17          **THE COURT:** All right, counsels. We had a superseding  
18          indictment come down on 9-13, 2012. I need to know where you  
19          are, whether or not there was substantial additional discovery  
20          that came with the superseding indictment. Basically give me an  
21          update from the defense point of view as far as where the case  
22          is at.

23          **MR. DE NOIA:** Your Honor, at our last status or,  
24          actually, at the arraignment on the superseding indictment, we  
25          received additional discovery from the government. It was

1 somewhat substantial. We did review it prior to completing our  
2 motions.

3 I have completed the pretrial motions. They were filed  
4 on the Pacer system last night before I left to come to  
5 Illinois. I have courtesy copies of the motions with me.  
6 Mr. Love instructed me to stop down at the Clerk's Office and  
7 file them on our way out today.

8 I have also turned over voluminous reciprocal discovery  
9 to Mr. Love today consisting of approximately 10,000 photographs  
10 and some additional documents to go along with that. The  
11 photographs were printed in three large binders. They're  
12 directly related to the charges against Mr. Inselberg.

13 The essence of the charges against Mr. Inselberg are  
14 sports memorabilia related, and a lot of the sports memorabilia  
15 has been documented in photographs turned over to Mr. Love that  
16 we believe may refute some of the allegations or the allegations  
17 against Mr. Inselberg.

18 THE COURT: How many motions did you file, counsel?

19 MR. DE NOIA: I filed a motion to dismiss based upon  
20 perjured testimony in the grand jury, a motion to dismiss based  
21 on lack of venue, a motion to transfer this case in accordance  
22 with Rule 21(b) to the District of New Jersey, a Santiago  
23 motion, and, finally, just a motion to file additional motions,  
24 if necessary.

25 THE COURT: Counsel, did you file the memorandum in

1 support of the motions along with the motions?

2 MR. DE NOIA: Yes, I did, your Honor.

3 THE COURT: All right. What's the position of the  
4 United States on all this?

5 MR. LOVE: Your Honor, the motion presents substantial  
6 issues, particularly the first one that counsel mentioned  
7 regarding allegations of perjury in the investigation.  
8 Allegations such as that require us to seriously review and  
9 consider what occurred. Additionally, the motions in and of  
10 themselves are lengthy and complex, present complex issues. And  
11 then, of course, there's the discovery that counsel mentioned.

12 I'm asking for 60 days for a response time, and I'll  
13 have a motion to exclude the time period on two bases, your  
14 Honor. 3161(h)(1)(D) for the delay attributable to the filing  
15 of a pretrial motion, but because of the prompt disposition  
16 language in that subsection, also because of the allegations of  
17 perjury, serious matters that those present, I'm also asking for  
18 the exclusion of the time pursuant to Title 18, 3161(h)(7), in  
19 that the failure to grant the continuance may result in a  
20 miscarriage of justice.

21 THE COURT: All right. Let's take it one step at a  
22 time. Does defense counsel object to the United States having  
23 60 days to respond to all the motions?

24 MR. DE NOIA: No, your Honor. No objection.

25 THE COURT: All right. Then I'm going to set the

1 response time as far as the motions are concerned as of -- let's  
2 go with December 10, 2012.

3 Now, counsel, do you want to see the response before we  
4 set a reply time, or are you prepared to set a reply time at  
5 this time?

6 MR. DE NOIA: Your Honor, it would be our preference to  
7 see the opposition before we set the reply date. I don't  
8 know -- and to be clear, the allegations of perjury are not  
9 against the U.S. Government being complicit with any of the  
10 witnesses. It's that the actual witnesses, who happen to live  
11 in New Jersey, once they came out here perjured themselves. But  
12 once Mr. Love and the government have a chance to review it, we  
13 may have some additional matters to discuss. So, I'd rather not  
14 set a date at this point, if possible.

15 THE COURT: Well, what about if we came back then  
16 either like December 11th or December 12th. You'll have the  
17 response of the United States by then. We can see what's  
18 appropriate based upon the circumstances. And because of the  
19 type of motions involved and the briefing schedule the court is  
20 setting, it would be the suggestion of the court that the matter  
21 remain with the magistrate judge until such time as I get  
22 everything straightened out as to when the reply is going to be.

23 MR. DE NOIA: That would be fine with us, your Honor.  
24 We actually agree with that, and Mr. Love and I spoke about that  
25 last night on the phone, as far as keeping the case with your

1       **Honor.**

2               **THE COURT:** Is either the 11th or 12th of December good  
3 for both parties?

4               **MR. DE NOIA:** The 11th would work better, your Honor,  
5 if possible.

6               **MR. LOVE:** The 11th is fine with me, Judge.

7               **THE COURT:** All right. I'll bring the case back then  
8 12-11, 2012. I'll bring it back at 11:00 o'clock in the morning  
9 for a status, as far as matters are concerned.

10              Now, what's the position of the defendant going to be  
11 in regard to the motion I'm going to get in regard to exclusion  
12 under the Speedy Trial Act?

13              **MR. DE NOIA:** No objection, your Honor.

14              **THE COURT:** All right. Counsel, why don't you go ahead  
15 and make the motion then.

16              **MR. LOVE:** Your Honor, pursuant to Title 18, United  
17 States Code, Section 3161 subsections (h)(1)(D) and (h)(7), the  
18 United States moves to exclude the time period from today  
19 through and including December 10th for the reason that the  
20 delay is attributable to the pretrial motion and also for the  
21 reason that the failure to grant the continuation of proceedings  
22 would result in a miscarriage of justice.

23              **THE COURT:** Counsel, have you had the opportunity to  
24 discuss the motion with your client, and does he have any  
25 objection to the motion?

1           **MR. DE NOIA:** Your Honor, we've discussed the issue at  
2 length, and he has no objection.

3           **THE COURT:** All right. Here's what I'm going to do.  
4 I'm going to grant the motion of the United States. I'm going  
5 to exclude the period of time from today's date, October 10th,  
6 2012, through December 10th, 2012, and I'm going to do it for  
7 two reasons. One, a substantial number of motions are under  
8 advisement and that the matter has to be briefed, including a  
9 reply brief, in order for the district court to have the  
10 opportunity to review the motion.

11           But also because the period of time of 60 days to  
12 respond to the motion is unusually long, the court is going to  
13 take that into consideration and also do the balancing required  
14 under 18 U.S.C. 3161(h)(7) in where I balance the interest of  
15 the general public and the defendant to a speedy trial versus  
16 whether or not there is a potentiality here for a miscarriage of  
17 justice, and balancing those issues, I find that this additional  
18 time in order for the United States to respond to and  
19 investigate the allegations which are contained in the motion  
20 outweigh the interest that the defendant and the general public  
21 have to a speedy trial. Therefore, under the ends of justice  
22 provision, I'm also going to exclude that same period of time  
23 and, as I said, bring everybody back on the 12-11 date at  
24 11:00 o'clock. We'll see where we're at at that point in time.

25           Anything I didn't cover on behalf of the defendant?

1                   **MR. DE NOIA:** No, your Honor.

2                   **THE COURT:** Anything on behalf of the United States?

3                   **MR. LOVE:** No, your Honor. Thank you.

4                   **THE COURT:** Have a great day, counsels, would you,  
5 please?

6                   **MR. DE NOIA:** Thank you, your Honor.

7                   (Which were all the proceedings had in the above-entitled  
8 cause on the day and date aforesaid.)

9                   I certify that the foregoing is a correct transcript from  
10 the tape-recording of proceedings in the above-entitled matter.

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**Mary T. Lindbloom**  
14 **Official Court Reporter**

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